

# SENATE BILL REPORT

## SB 5519

---

As of February 13, 2017

**Title:** An act relating to the revision of exclusive adult jurisdiction.

**Brief Description:** Concerning the revision of exclusive adult jurisdiction.

**Sponsors:** Senators Kuderer, Darneille, Hasegawa, Hunt, Saldaña and Keiser.

**Brief History:**

**Committee Activity:** Human Services, Mental Health & Housing: 2/06/17.

**Brief Summary of Bill**

- Removes five juvenile criminal charge categories from mandatory adult criminal jurisdiction.
- Requires a court hearing for mandatory adult court jurisdiction for specific offenses unless the juvenile, the prosecutor, and the court agree that a hearing should not be held.
- Applies to juveniles who were 16 or 17 years old when the alleged crime was committed.
- Permits a juvenile and prosecutor to waive mandatory adult court jurisdiction with court approval for defined serious violent offenses and violent offenses when the juvenile has a prior history of specific, separately-prosecuted offenses committed after the juvenile turned 13 years old.
- Retains current requirements for discretionary decline hearings.

---

### SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

**Staff:** Melissa Burke-Cain (786-7755)

**Background:** Juvenile courts generally have exclusive original jurisdiction over legal proceedings when a juvenile is charged with a criminal act. However, a juvenile, a prosecutor, or the court may ask for a juvenile case to be transferred to adult court. A court may set a hearing, known as a decline-hearing, to decide whether to exercise discretion and

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

transfer the case to adult court. For specific serious, often violent, crimes and circumstances designated by law, the courts are required to consider whether to decline jurisdiction or retain the case in juvenile court for prosecution. In these enumerated circumstances, if the juvenile court declines jurisdiction after a hearing, the case transfers to adult court where the juvenile is tried as an adult. In 1994, a subset of serious crimes allegedly committed by juveniles who had prior criminal records were designated for potential transfer to adult court. In 1997, the law changed because the process for transferring cases from juvenile court to adult court could be lengthy. The law change allowed for mandatory transfer of specific crimes charged against older juveniles from juvenile court to adult court without a decline hearing. This process is often referred to as auto-decline. When a charge that is subject to auto-decline is charged by the prosecutor and the juvenile was 16 or 17 when the crime occurred, the case transfers directly to adult court. If the juvenile is convicted in adult court, the juvenile is sentenced as an adult but serves a portion of the sentence in a juvenile-only setting.

**Summary of Bill:** The juvenile court is not required to decline jurisdiction, but may consider whether to retain or decline jurisdiction, when a juvenile is charged with any of the following crimes and was 16 or 17 years old at the time the crime occurred:

- first degree robbery;
- first degree rape of a child;
- first degree burglary, with a history of a prior offense;
- drive by shooting, or
- other specified violent crimes while allegedly armed with a firearm.

The prosecutor and juvenile may agree to juvenile court jurisdiction, and waive application of the mandatory adult criminal jurisdiction with the court's approval when the juvenile is charged with any of the following crimes and was 16 or 17 years old at the time the crime occurred:

- a serious violent offense as defined by law; or
- a violent offense as defined by law when the juvenile has a criminal history consisting of (1) one or more prior serious violent offenses, (2) two or more prior violent offenses, or (3) three or more of any combination of the following offenses: any Class A felony, any Class B felony, vehicular assault, or manslaughter in the second degree, all of which must have been committed after the juvenile's 13th birthday and prosecuted separately.

Unless the juvenile, the prosecutor, and the court agree, a decline hearing must be held if a juvenile is charged with one of the following crimes:

- the respondent is 16 or 17 years of age and the information alleges a Class A felony or an attempt, solicitation, or conspiracy to commit a Class A felony;
- the respondent is 16 or 17 years of age and the information alleges any violent offense as defined by law and the juvenile is alleged to have been armed with a firearm;
- the respondent is 17 years of age and the information alleges assault in the second degree, extortion in the first degree, indecent liberties, child molestation in the second degree, kidnapping in the second degree, or robbery in the second degree; or
- the information alleges an escape by the respondent and the respondent is serving a minimum juvenile sentence to the age of 21.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: Automatic decline of juvenile court jurisdiction was an experiment that has not worked; it creates career criminals. The auto-decline should be rolled back to give discretion back to the judiciary. Given new knowledge about brain biology, it is a process that may be tough, but not smart on crime. There will still be juveniles who are tried as adults if the bill passes, although some who are now tried as adults will remain in juvenile court jurisdiction. Juvenile courts are required to make individualized determinations in each case. Automatic decline of juvenile court jurisdiction is not appropriate. A hearing, with a judge deciding whether to retain jurisdiction based on the charge should be the process, not leaving the choice of jurisdiction in the prosecutor's hands based on a charging decision. An decline hearing will still be required. Prosecutors already have a lot of power when making charging decisions without auto-decline which does not take the defendant's history, the proof problems of the case, or the defendant's individual characteristics into account as would be the case in a decline hearing before a judge with a prosecutor and defense counsel present. The auto-decline bill came out of the super-predator movement. The current system results in racial disparity. The bill appropriately provides for a neutral decision maker to consider whether adult or juvenile court jurisdiction is appropriate on a case-by-case basis.

CON: Some cases are so serious, when committed by a 16 or 17 year old that they should be adjudicated in adult court. This bill goes backwards; back to 1997. What is important is what the defendant did and was proved to have done. The current law is flexible. Looking at the recent report of King County cases; out of 64 cases, 34 were retained in juvenile court and 30 were declined to adult court. These cases should be examined and a determination should be made whether you are comfortable with the way the cases are being handled.

**Persons Testifying:** PRO: Senator Patty Kuderer, Prime Sponsor; Bob Cooper, WA Defender Assn., WA Assn. of Criminal Defense Lawyers; Cindy Arends, WA Defender Assn., WA Assn. of Criminal Defense Lawyers; Nick Allen, citizen.

CON: Tom McBride, WAPA.

**Persons Signed In To Testify But Not Testifying:** No one.